

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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JAMES F. MEEGAN, II,

Case No. 3:15-cv-00464-MMD-WGC

Petitioner,

ORDER

v.

BACA, *et al.*,

Respondents.

This action is a *pro se* petition for a writ of mandamus, in which petitioner seeks an order of release from state prison. The Court construes this action as a petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254.

Neither a filing fee nor an application to proceed *in forma pauperis* was submitted with the petition. When filing a habeas action, petitioner must either submit the \$5.00 filing fee for habeas petitions or an application to proceed *in forma pauperis*. Due to the lack of an *in forma pauperis* application or filing fee, the present action will be dismissed without prejudice to the filing of a new petition in a new action with a pauper application with all required attachments. It does not appear from the papers presented that a dismissal without prejudice would result in a promptly-filed new petition being untimely. In this regard, petitioner at all times remains responsible for calculating the running of the limitations period as applied to his case and properly commencing a timely-filed habeas corpus action.

It therefore is ordered that this action is dismissed without prejudice to the filing of a new petition in a new action.


1 It is further ordered that the Clerk of the Court shall send petitioner two (2) copies
2 of an *in forma pauperis* application form for a prisoner, one (1) copy of the instructions
3 for the same, two (2) copies of a blank 28 U.S.C. § 2254 habeas petition form, and one
4 (1) copy of instructions for the same.

5 It is further ordered that petitioner may file a new petition in a new action, but he
6 may not file further documents in this action.

7 It is further ordered that a certificate of appealability is denied. Reasonable jurists
8 would not find the dismissal of the improperly-commenced action without prejudice to be
9 debatable or wrong.

10 It is further ordered that the Clerk of the Court shall enter judgment accordingly.

11 DATED THIS 14th day of September 2015.
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14 _____
15 MIRANDA M. DU
16 UNITED STATES DISTRICT JUDGE
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